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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Tariffs Implementing ) CC Docket No. 97-250  
Access Charge Reform )

**MOTION TO EXPAND DESIGNATED ISSUES**

Teleport Communications Group Inc. ("TCG") hereby requests that the Commission expand its investigation in the above-captioned proceeding<sup>1</sup> to include the 1998 Annual Access Tariff Filing of the Ameritech Operating Companies ("Ameritech") to the extent that filing eliminates the Transport Interconnection Charge ("TIC") exemption when a competitor provides its own transport service but purchases Ameritech's multiplexing service.

**I. INTRODUCTION**

In its Access Charge Reform Order, the Commission exempted competitive carriers that provide transport from paying the TIC to incumbent local exchange carriers (LECs).<sup>2</sup> Notwithstanding the Commission's policy, Ameritech's instant

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1. See Order Designating Issues for Investigation and Order on Reconsideration, DA 98-151 (rel. Jan. 28, 1998) ("Designation Order").

2. Access Charge Reform, First Report and Order, CC Docket No. 96-262, FCC 97-158 (rel. May 16, 1997) at ¶ 240 ("Access Charge Reform Order"), recon.

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tariff seeks to deny competitive carriers the remaining portion of the TIC exemption to which they are entitled. This result is contrary to the Commission policy, is clearly anticompetitive, and must be investigated.

In its Second Reconsideration Order, the Commission limited the TIC exemption such that only the portion of the TIC that is reassigned to particular facilities will be subject to the TIC exemption. Thus, in instances where portions of the TIC are not reassigned, the incumbent LEC may still impose a TIC charge even when another carrier provides transport.<sup>3</sup> However, the TIC exemption still applies for the remaining per-minute TIC that is reallocated to facilities-based rate elements. Thus, the TIC exemption ensures that any per-minute residual TIC will be charged only on minutes that utilize incumbent LEC transport facilities.<sup>4</sup> Ameritech's instant tariff, however, undermines that basic Commission policy, which is based on the reasonable premise that in a competitive environment customers should only pay for the services they use.

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First Order on Reconsideration, FCC 97-247 (rel. July 10, 1997), recon. Second Order on Reconsideration and Memorandum Opinion and Order, FCC 97-368 (rel. October 9, 1997) at ¶ 73 ("Second Reconsideration Order").

3. Second Reconsideration Order at ¶ 73.

4. Second Reconsideration Order at ¶ 73; see also Access Charge Reform Order at ¶ 240.

## **II. AMERITECH'S ELIMINATION OF THE TIC EXEMPTION SHOULD BE DESIGNATED FOR INVESTIGATION**

According to the Ameritech tariff,

If the CAP provides only the Entrance Facility, and the Telephone Company provider [sic] multiplexing and/or interoffice transport, the [CAP Transport Residual Credit] does not apply[.]<sup>5</sup>

As TCG explained in its Petition,<sup>6</sup> Ameritech's interpretation of the TIC exemption is flatly contrary to the requirements of the Commission's access charge policy. In the Access Charge Reform Order, the Commission did not define multiplexing as a component of transport, but rather treated transport and multiplexing as two segregable services, in requiring that a distinct multiplexing rate element be developed.<sup>7</sup> However, Ameritech's tariff provides that, if a competitive carrier such as TCG utilizes Ameritech's intraoffice multiplexing facilities, then that carrier must pay the entire TIC to the incumbent LEC, even when that carrier provides the entire transport service for its customer. Thus, neither the competitive carrier nor its customer may receive the benefit of the TIC exemption under Ameritech's tariff.

The Commission did not condition the TIC exemption on a competitive carrier's provisioning both transport and multiplexing. Rather, the Commission provided that "[p]er-minute TIC amounts that the LEC expects to reallocate to

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5. Ameritech Operating Companies, Tariff F.C.C. No. 2, Original Page 180.8.2 at 6.8.2(D)(7)(b).

6. See TCG's "Petition to Reject or Suspend and Investigate" Ameritech Transmittal No. 1136, dated December 23, 1997 ("Petition").

7. Access Charge Reform Order at ¶¶ 170-73, 219.

facilities-based rate elements, in contrast, may be assessed only on minutes transported on the incumbent LEC's own transport facilities."<sup>8</sup> In this regard, the Commission distinguished multiplexing from transport by requiring a separate rate element for this service. Indeed, multiplexing is a central office service: a competitive carrier can provide transport to and from the central office regardless of whether it uses its own multiplexing or purchases multiplexing services from the incumbent LEC. The Ameritech tariff, however, denies the TIC exemption if a competitive carrier purchases multiplexing from Ameritech, even though the competitive carrier transmits the traffic over its own facilities to the Ameritech central office.

In its Reply to TCG's Petition, Ameritech obscurely argued that, if it provides the DS1/DS3 multiplexing, then the link between the multiplexer and the end office switch is transport, and Ameritech applies the TIC to this transport. It claimed that, when a competitor provides the multiplexing equipment, the connection between the collocation space (including the multiplexer) and the Ameritech end office switch is assessed according to the interconnection charge and the TIC is not applied.<sup>9</sup>

Ameritech's purported justification for its tariff is specious, as evidenced by the TIC exemption practices of other incumbent LECs. In its Reply to TCG's

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8. Second Reconsideration Order at ¶ 73 (emphasis added).

9. See "Ameritech's Opposition to Petitions to Reject or Suspend and Investigate," at 3, dated Dec. 29, 1997.

Petition, BellSouth, for example, correctly described the application of the TIC exemption: "Customers which utilize [the LEC's] multiplexing facilities only, and not transport facilities, will not be assessed the facilities TIC. This properly reflects the Commission's intent to treat multiplexing as a separate rate element or facilities not included in the transport facilities themselves, as TCG states. For instance, the Commission established a new and separate rate element in the Access Reform Order for multiplexers associated with tandem switching, and analog end office multiplexers are included in local switching, not transport."<sup>10</sup> In fact, BellSouth acknowledges that the Commission's Rules are so clear on this issue, that BellSouth need not modify its tariff filing to reflect the fact that indeed a competitive carrier is entitled to the TIC exemption when that carrier provides the transport.<sup>11</sup>

Ameritech's interpretation of the Commission's TIC exemption policy not only is at odds with BellSouth's interpretation, to TCG's knowledge it is at variance with every other incumbent LEC's interpretation. In short, Ameritech seeks to deny competitive carriers the TIC exemption in the very circumstances when they are entitled to that exemption under the Commission's access charge policy -- e.g., when they provide transport and purchase intraoffice services such as multiplexing. A investigation of Ameritech's tariff is therefore required, and it would be most

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10. "Reply of BellSouth Telecommunications, Inc." to Petitions to Reject and Suspend Annual Access Tariff Filing, Transmittal No. 435, at 11-12, dated Dec. 29, 1997.

11. Id. at 10-12.

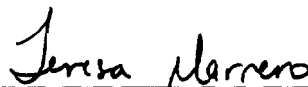
efficient if the Commission conducted that investigation in the context of the above-captioned proceeding.

### III. CONCLUSION

For the reasons set forth above, the Commission should designate as an issue in the above-captioned proceeding the lawfulness of Ameritech's tariff that eliminates the TIC exemption when a competitive access provider purchases multiplexing service but provides the transport.<sup>12</sup>

Respectfully submitted,

TELEPORT COMMUNICATIONS GROUP INC.



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Dated: February 20, 1998

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12. See Ameritech Operating Companies, Tariff F.C.C. No. 2, Original Page 180.8.2 at 6.8.2(D)(7)(b).

CERTIFICATE OF SERVICE

I, Charlene A. Reed, do hereby certify that on this 20th day of February 1998, I have caused a copy of the foregoing Motion to Expand Designated Issues to be served via U.S. first-class mail, postage prepaid, to the following persons:


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